HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

WRIT PETITION No.21796 of 2000

Between:

Kommidi Raji Reddy … Petitioner

and

Union of India, represented by its Its Deputy Secretary to Government, Ministry of Home Affairs, Freedom Fighters Division, Lok Nayak Bhavan, Khan Market, New Delhi and another.

… Respondents

: O R D E R :

Counsel for the Petitioner : Sri T. Aswin Kumar, for Sri Y. Rama Rao.

Counsel for respondent No. 1 : Sri A. Rajasekhar Reddy, Asst. Solicitor General of India.

Counsel for respondent No.2 : Government Pleader for Revenue.

8th August, 2006

In this petition, the petitioner has prayed for issue of a mandamus to respondent No.1 to sanction pension in his favour under "Swatantrata Sainik Samman Pension Scheme, 1980" (for short, 'the 1980 Scheme').

In paragraph 4 of the affidavit filed by him, the petitioner has averred as under:

> The petitioner respectfully submits that petitioner held public meetings against the then Nizam Government hoisted the congress flag and conducted public meetings in different villages and fell toddy trees and attacked the police stations under the leadership of Late Sri K.V. Narsinga Rao, Camp Incharge of Chanda Border Camp. The petitioner was actively participated in the said movement and arrest warrant was issued against the petitioner in Letter No.215/Cong/5, dated 2nd Ardi Behisth 1357 Fasli. The petitioner respectfully submits that after he came to know about the arrest warrant he went underground for a period of more than six months to escape the arrest. The petitioner was trained under his leadership of Late Sri K.V. Narsinga Rao. The petitioner respectfully submits that as the petitioner is entitled under the scheme as such the petitioner filed application before the 1st respondent herein along with relevant documents. But till date the 1st respondent has not considered the petitioner's case. In pursuance of the petitioner's application for grant of freedom fighter pension to the respondents herein, the 2nd respondent herein directed the District Collector, Karimnagar to conduct an enquiry with regard to participating of the petitioner in the freedom movement. The Revenue Divisional Officer, Karimnagar conducted a detailed enquiry and submitted a detailed report to the District Collector, Karimnagar. The District

Collector after satisfying the enquiry and evidence on record submitted a report to the 2nd respondent herein duly recommending the case of the petitioner. The 2nd respondent after considering material available on record and report of the Collector, Karimnagar, recommended the case of the petitioner by his letter No.31491/FF/A4/(90.1) dated 19.2.90 to the 1st respondent for grant of freedom fighter pension from the central funds as per the scheme, but till date the case of the petitioner neither rejected nor communicated any decision till date. The action of the 1st respondent in not considering the case of the petitioner is illegal, void ab initio and action of the 1st respondent is equally violative of Article 14 of Constitution of India. I respectfully submit that I attained age of 74 years and no person is supporting me, as such the action of the respondent for not granting the freedom fighter pension is nothing but violative of their own rules, and dicta laid down by the Hon'ble Supreme Court reported in AIR 1993 SC 2127. As such, the petitioner approaching this Hon'ble Court to direct the respondents herein to consider the case of the petitioner for grant of freedom fighter pension under the scheme otherwise the petitioner put to great irreparable loss during his old age. I respectfully submit that as per scheme the 1st respondent has to grant FF pension to those persons went into the underground for more than six months to evade arrest warrant and persons who have undergone imprisonment. But the 1st respondent was not considering the case of the petitioner till date. As such the action of the 1st respondent is illegal, void ab initio, besides violative of natural justice."

Along with his affidavit, the petitioner has annexed copies of letter dated 19.2.1990 written by Secretary to Government of Andhra Pradesh, Revenue Department to Deputy Secretary to Government of India, Ministry of Home Affairs (Freedom Fighters Division), New Delhi; letter dated 9.8.1987 sent by him to the Deputy Secretary concerned; English translation of confidential document dated

9.5.1957 Fasli sent by Inspector General of Kotwali (Police Stations), Government of Aasafya (Sarkar-e-Aali) and English translation of letter sent by Assistant Secretary, Courts, Kotwali and Public/General Administration dated 2, Ardi, Behisht 1357 F.

In the counter-affidavit filed on behalf of respondent No.1, the petitioner's claim for grant of pension has been contested on the premise that he did not make any application in the prescribed proforma.

I have heard learned counsel for the parties and perused the record.

The petitioner's claim for grant of pension is founded on his assertion that in furtherance of warrant issued against him, he had remained underground for a period of more than six months and he received training under the leadership of late K.V. Narasinga Rao. If the petitioner had produced his documentary evidence to support his assertion, the Court may have entertained and accepted his prayer for issue of a direction to respondent No.1 to pay pension under the 1980 Scheme. However, the fact of the matter is that the petitioner has miserably failed to establish his plea that he had remained underground pursuant to warrant of arrest issued by the competent authority. The English translation of two documents dated 9.5.1957 F. and 2, Ardi, Behist 1357 Fasli filed along with the writ petition do not contain any reference to the petitioner. Neither of the documents mentions his name. Therefore, it is not possible to hold that the Inspector General of
Kotwali had issued warrant of arrest against him and, on that
account, he remained underground. The failure of the petitioner to
produce certificate issued by the camp incharge is another factor which goes to show that his claim for grant of pension treating him as a freedom fighter who had taken part in Hyderabad liberation movement

is not well founded.

With the above observations, the writ petition is dismissed.

8th August, 2006 **G.S. SINGHVI, CJ**

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